

Mediation Marking Criteria

In order to pass all delegates must exhibit the 'Must Pass Criteria' (MPC) in each session. Failure to keep matters confidential between parties and maintain neutrality at any stage in the mediation process will result in an automatic fail.

Opening Session

Delegates are expected to make a clear opening statement.

(MPC) – voluntary, confidentiality, authority to settle, without prejudice.

Communication – eye contact, engaging, functional and persuasive, good pace, clear and audible, explains the agreement to mediate.

Impact – the mediator made an opening statement that allowed the parties to clearly understand the process of mediation, the mediator's role and the objective to settle!

Exploration Session A1 & A2 – Getting the whole story + Distilling the Issues

Delegates are expected to explore and gain new information and are extract the relevant issues.

MPC – Top and Tail confidentiality, maintains neutrality and impartiality.

Communication - eye contact, engaging, functional and persuasive, good pace, clear and audible.

Questioning – open questions, short and precise, draws information out.

Mediation Skills – summarising, reframing, empathy, active listening, enables parties to vent.

Impact – the mediator gave the parties a good opportunity to reveal confidential information and summarised the dispute.

Exploration Session B1 & B2 – Destabilisation + Future without conflict

Delegates are expected to understand the dispute having previously drawn out the key issues that are in conflict between the parties and explore any emotional or sensitive information.

MPC – asks parties what is most important for them, gets parties' opinions on what is preventing a settlement, understands what is at the heart of the dispute. Exploring and discussing both parties BATNA'S and WATNA'S.

Communication – eye contact, engaging, functional and persuasive, good pace, structured, shows good understanding, clear and audible.

Questioning – open questions, short and precise, draws information out.

Mediation Skills – empathy, analysis skills, prioritising key issues.

Impact – the mediator gave the parties a good opportunity to reveal confidential information and is able to identify the key issues in the dispute.

Homework – Ask the parties to think of solutions that meet their needs and also the other side.

Negotiation Session C1 & C2 – Smart test possible offers

Delegates are expected to take a principled approach to negotiation. They need to encourage parties to resolve the dispute together.

MPC – explains that the participants are problem-solvers and that the problems are the key issues in the dispute not the people, reminds parties of confidentiality and encourages them to make offers, understands both parties' BATNAs and WATNAs, reality tests offers from both sides, explores both parties' interests, keeps the process moving forward, breaks through deadlocks and assists the parties in developing multiple options to choose from, keeps record.

DO NOT EXCHANGE OFFERS IN THIS SESSION

Communication – eye contact, engaging, functional and persuasive, good pace, structured, shows good understanding, clear and audible.

Questioning – open questions to draw out offers, closed questions to reality test the offers, short and precise, draws information out.

Mediation Skills – shows empathy for the parties, treats the problem with authority, helps the parties prioritise their needs, active listening, listens for potential apologies.

Impact – the mediator gives the parties the opportunity to make realistic offers, he/she listens to possible points of settlement, breaks through deadlocks and keeps the process moving forward.

Negotiation Session D1 & D2 – Exchanging Offers

Delegates are expected to SMART test any potential settlement and ensure it can be binding.

MPC – to ensure that the offer is well thought out and address some if not all of the needs of both parties. Ensure that the offer has sufficient detail to become a binding offer.

Communication – eye contact, engaging, function and persuasive, good pace, structured, shows good understanding, clear and audible.

Mediation Skills – shows empathy for the parties, treats the problem with authority, active listening, ensures the settlement is realistic and binding.

Impact – The mediator summarises the offer and ensures that the parties understand the potential settlement. The settlement should be binding, realistic and SMART.